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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 692 OF 2006

Gopal Ramchandra Gurav
(since deceased, by his heirs)
1. Smt. Kamalabai Gopal Gurav & ors. ... Appellants

V/s

Shri Jayram Ravaji Gurav
(since deceased, by his heirs)
1-A) Sou. Parvati Ishwar Gurav ... Respondents

Mrs. J.P. Akolkar for the appellants.

Mr. S.S. Redekar for the respondents.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 12TH JULY, 2007.

P.C.:

1. Suit No. 73 of 1990 had been filed by the present appellants for a declaration that they are owners of the suit property and have sought an injunction. The suit has been dismissed by the Trial Court since the appellants failed to prove their title and possession. According to the appellants, they were the owners and in possession of the suit land bearing Survey No.50/2 but the name of Jayram, son of Ravaji had been wrongly entered into the records vide mutation entry No.1196.

According to the appellants, Jayram was never in possession but had taken undue advantage of the wrong revenue records in respect of Survey No.50/2. The appellants claimed that Jayram was the owner of Survey No. 50/12 and hence, the respondent purchaser could claim to be the owner of 50/12 through Jayram.

2. Both the Courts below have found that the appellants failed to prove their title to the property. It was found that Gopal Ramchandra Gurav, the appellants' predecessor in title, was not a descendant from the common ancestor of the branch of Ravaji Gurav and, therefore, could not claim that the suit property was ancestral. The learned advocate appearing for the appellants submitted that Survey No.50/2 was wrongly recorded by this Court while disposing of the Second Appeal No. 919 of 1964 from the Suit No. 57 of 1961 and, therefore, the appellants were, in fact, the owners of the Survey No.50/2. Both the Courts below have rightly observed that the appellants had no title to the property nor had they proved the ownership. Assuming there was a typographical error in the order of this Court passed in the Second Appeal No. 919 of 1964, by mentioning Survey No. 50/2 instead of 50/12, the appellants ought to have had the same corrected by this Court.

3. In any event, there is a concurrent finding of fact by both the Courts below that the appellants have not proved their title to the property.

4. Appeal dismissed.

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